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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,210

04/04/2005

Antonio La Gioia

2520-1055

2887

466

7590

09/01/2006

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/530,210

Applicant(s)

LA GIOIA, ANTONIO

Examiner

Stephen Gravini

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050404</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 17 and 18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel one of the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claims in independent form. In this application both claims 17 and 18 are identical and do not further the claimed invention in their present form.

Claim Rejections - 35 USC § 112

Claims 14-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically those claims recite either directly (independently) or indirectly (dependently) the following recitations:

“coursed by a thermal carrier fluid” (claims 14, 16),

“along the generatrixes of the cylinder” (claim 14),

“in such a way to realize longitudinal slots” (claim 14),

“straddle profile in such a way that cusps defined between a straddle and the adjacent one are insinuate within the space between two adjacent tubes” (claims 17, 18),

“depression mode” (claim 23),

“saidretainer hoops are mounted on a series of resting and sliding means creating a labile statically indeterminable structure” (claim 24),

“lower death ends” (claim 25),

“amount of refuses introduced” (claim 25),

“lower death points” (claim 26). In each of those recitations, the specification is not considered enabling to one skilled in the art such that the invention can not be made and/or used. Those terms are not familiar to the art of drying and are unique, even when viewed in light of applicant’s earlier patent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-15, 17-21, and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Raggan et al. (US 4,451,331). Examiner will construe the terms discussed under the enabling rejection above, such that the prior art is discussed consistent with those recited terms. Also the means for language in claim 14 is considered to invoke the sixth paragraph of 35 USC 112, since the “means for” language is used, modified by functional language and not modified by sufficient structure, material, or acts for the specified function. Raggan is considered to disclose the claimed invention comprising:

a cylindrical body **1** and at least a pair of pressure plates **4**, **4'** said cylindrical body being comprised heating longitudinal tubes, coursed by a thermal carrier fluid, provided along the generatrices of the cylinder and spaced each other, way to realise longitudinal slots for outlet of vapour but not for outlet of material (please see column 5 lines 58-58 wherein the sealing element allows vapor outlet but not material), coupled by constraint hinge means as see from figures 1-5, positioned given distance between centres, and pressure plates being placed opposed each other, operating as movable basis of said cylindrical body and acting as pressing pistons, steam generated (please see column 5 line 62 for the expressly disclosed steam generation) by the heating step said wastes being discharged through the longitudinal slots between said heating tubes, characterised in that provided inside the cage drying compacting apparatus, all along length, said sources being comprised least one tube provides further heat sources, which the thermal carrier fluid runs through, means inlet the material to be subjected to treatment, position close one of the two ends of the apparatus, and means **23** for collecting the material subjected to the treatment, correspondence of the opposed end as shown in figures 5 and 6. Raggan is also considered to disclose the claimed plurality of tubes **53** & **47**, pressure plates shape as shown in figures 5-6, heat sources are constrained by a containment structure, comprised of a plurality of constraint plates, provided at a set distance between centres at column 7 lines 12-24, inlet and outlet manifolds for said thermal carrier fluid from the tubes, coupled by flexible joints, in such a way to allow a uniform distribution of the fluid within the tubes, at column 7 lines 25-30, a thermo-insulating material case, tightly containing said cylindrical body, having a

manifold function for the vapour exiting from said longitudinal slots and put in a depression mode by a closed cycle motor-condensing unit in such a way that said apparatus has no impact on the working environment and on the outer environment at column 2 lines 10-11, saidretainer hoops are mounted series of resting and sliding means creating a labile statically indeterminable structure in order to minimise the effects due stresses deriving from the high thermal gradients, as well from the radial thrusts due to the compression forces exerted by the opposed pressure plates as shown in figures 1-6, and withdrawing the pressure plates of both sides of the apparatus up to the respective lower death ends; introducing within the drying compacting apparatus, the operative temperature, already containing an amount of refuses introduced during the previous cycles, loading amount of material to be subjected to treatment, operating the pressure plates of the material inlet side, such a way that they press the introduced material with the new charge against the material already present within the cylindrical body of the drying - compacting apparatus, thrusting it in such a way that fraction of the material, to the inlet one opposite with respect exiting, the end the material is made withdrawing the pressure plates from the side of inlet the material up to the lower death end, the amount material exited from the taking apparatus, operating the pressure plates of both the apparatus sides, repeating the cycle the first step, t set running operation conditions are reached by the following steps, starting from an empty apparatus: such a way that they will press the material therein, making the thermal carrier fluid flowing within the tubes, operative temperatures, withdrawing the pressure plates of both sides of the apparatus up to the relevant lower death points,

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introducing a batch of the waste to be subjected to the treatment within the drying compacting apparatus, that the operative temperature, operating the pressure plates of both the sides of the such a way that they press and move the material apparatus, contained therein, said steps being cyclically repeated until reaching the set filling grade at column 5 line 39 through column 13 line 59.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raggan. Raggan is considered to disclose the claimed invention, as rejected above, except for the claimed four equivalent sections. It would have been an obvious matter of design choice to provide more than one section, since the prior art would perform the claimed drying features regardless of the number of sections.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raggan in view of McOnie et al. (US 5,562,832). Raggan is considered to disclose the claimed invention, as rejected above, except for the claimed loading hopper. McOnie, another drying compacting apparatus, is considered to disclose a loading hopper at column 3 line 23-55. It would have been obvious to one skilled in the art to combine the teachings of Raggan with the loading hopper, considered disclosed in McOnie, for the purpose of allowing treatment material to be placed in the compact drying apparatus.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 14-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,298,576. Although the conflicting claims are not identical, they are not patentably distinct from

each other because it would have been obvious to one skilled in the art to provide applicant's earlier patented invention with the presently claimed hinge means, since the earlier patented invention would perform the claimed features regardless of whether a hinge means is part of the recited structure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272 4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG
August 15, 2006

